

Honorable Brian D. Lynch
Hearing date: December 19, 2018
Hearing time: 9:00 a.m.
Response date: December 12, 2018
Chapter 7
Location: Tacoma

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re:

IAN and KERI SCHUMACHER,

Debtors.

No. 17-43172

TRUSTEE'S SUPPLEMENTAL RESPONSE
TO DEBTORS' MOTION DIRECTING
TRUSTEE TO ABANDON REAL
PROPERTY

COMES NOW, the Chapter 7 Trustee, Kathryn A. Ellis, and in response to the debtors' motion to compel abandonment states as follows:

1. The debtors' motion refers to an appraisal by David Pollack [sic], asserting an appraised market value of \$513,000. Although the motion states "See, Exhibit A", no Exhibit A was attached. In actuality, while the appraisal of Mr. Pollock does conclude that the market value is \$513,000.00, he does so precisely because of a 10% discount (\$57,000.00) based on the debtors' completion of a Form 17 claiming various "defects":

The Form 17 details a significant amount of issues associated with the house that the sellers do not plan to address ... [T]he sales suggest a market value for the subject of \$570,000. The appraiser has applied a 10% discount to this number to account for the risk and "as is" condition of the sale. This discount of \$57,000 when deducted from the suggested price would indicate a probable value for the subject of \$513,000.

See Exhibit 1 attached to the Declaration of Kathryn A. Ellis submitted herewith. In June of 2017, the debtors obtained a Comparative Market Analysis recommending a list price between \$550,000 to \$575,000. See Exhibit 2 attached to the Declaration of Kathryn A. Ellis submitted

**TRUSTEE'S SUPPLEMENTAL RESPONSE TO DEBTORS'
MOTION DIRECTING TRUSTEE TO ABANDON REAL PROPERTY - 1**

KATHRYN A. ELLIS, ESQ.
5506 6th Ave S
Suite 207
Seattle, WA 98108
(206) 682-5002

1 herewith. Accordingly, the debtors' reduced valuation is disingenuous. The actual appraised
2 value, without the extensive Form 17 manipulations, is as follows:

3 Value: \$570,000.00
4 Less costs of sale: \$45,600.00
5 Less first Deed of Trust: \$362,103.00
6 Less real estate taxes: \$8,813.14
7 Less homestead exemption: \$125,000.00
8 Estimated net proceeds: \$28,483.86

9 2. Abandoning this property, apart from the fact there is equity that can be
10 administered, would not be appropriate at this time. The debtors assuredly would still have to
11 file a motion to avoid the judicial lien of T. Garrett Construction Inc. As T. Garrett Construction
12 Inc. and the debtors obviously cannot agree on value, an evidentiary hearing would have to be
13 conducted in any event to determine whether the judicial lien impairs the debtors' homestead
14 exemption.

15 3. The Trustee has offered to 'sell' the debtors the estate's interest in the excess
16 equity in the property but the offer has been declined. Based on the time of season, it is not
17 anticipated that there will be significant interest in any real estate listings until early Spring
18 2019. The Court is requested to simply deny this present motion without prejudice to re-file in
19 early Spring 2019. The debtors' homestead exemption is fully protected until that time.

20 DATED this 12th day of December, 2018.

21
22 By: /s/ Kathryn A. Ellis
23 Kathryn A. Ellis, Trustee

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